

**SALES AND USE TAX EXEMPTION FOR
SALES OF UNSORTED MERCHANDISE**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

This act modifies the Sales and Use Tax Act by providing an exemption for sales of unsorted merchandise through a coin-operated vending machine under certain circumstances, and making technical changes. This act takes effect on July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-12-102 (Effective 07/01/01), as last amended by Chapter 253, Laws of Utah 2000

59-12-104, as last amended by Chapter 325, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-102 (Effective 07/01/01)** is amended to read:

59-12-102 (Effective 07/01/01). Definitions.

As used in this chapter:

(1) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(2) "Area agency on aging" is as defined in Section 62A-3-101.

(3) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA);

(b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,



the holder of a certificate issued by the United States Interstate Commerce Commission.

(4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" means:

- (i) a coin-operated amusement, skill, or ride device;
- (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and
- (iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.

(b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does not mean a coin-operated amusement device possessing a coinage mechanism that:

- (i) accepts and registers multiple denominations of coins; and
- (ii) allows the vendor to collect the sales and use tax at the time an amusement device is activated and operated by a person inserting coins into the device.

(5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (13) or residential use under Subsection (21).

(6) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(7) "Component part" includes:

- (a) poultry, dairy, and other livestock feed, and their components;
- (b) baling ties and twine used in the baling of hay and straw;
- (c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
- (d) feed, seeds, and seedlings.

(8) "Construction materials" means any tangible personal property that will be converted

59 into real property.

60 (9) (a) "Fundraising sales" means sales:

61 (i) (A) made by a public or private elementary or secondary school; or

62 (B) made by a public or private elementary or secondary school student, grades
63 kindergarten through 12;

64 (ii) that are for the purpose of raising funds for the school to purchase equipment,
65 materials, or provide transportation; and

66 (iii) that are part of an officially sanctioned school activity.

67 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
68 school activity:

69 (i) that is conducted in accordance with a formal policy adopted by the school or school
70 district governing the authorization and supervision of fundraising activities;

71 (ii) that does not directly or indirectly compensate an individual teacher or other
72 educational personnel by direct payment, commissions, or payment in kind; and

73 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
74 by the school or school district.

75 (10) (a) "Hearing aid" means:

76 (i) an instrument or device having an electronic component that is designed to:

77 (A) (I) improve impaired human hearing; or

78 (II) correct impaired human hearing; and

79 (B) (I) be worn in the human ear; or

80 (II) affixed behind the human ear;

81 (ii) an instrument or device that is surgically implanted into the cochlea; or

82 (iii) a telephone amplifying device.

83 (b) "Hearing aid" does not include:

84 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
85 having an electronic component that is designed to be worn on the body;

86 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
87 designed to be used by one individual, including:

88 (A) a personal amplifying system;

89 (B) a personal FM system;

- 90 (C) a television listening system; or
- 91 (D) a device or system similar to a device or system described in Subsections
- 92 (10)(b)(ii)(A) through (C); or
- 93 (iii) an assistive listening device or system designed to be used by more than one
- 94 individual, including:
- 95 (A) a device or system installed in:
- 96 (I) an auditorium;
- 97 (II) a church;
- 98 (III) a conference room;
- 99 (IV) a synagogue; or
- 100 (V) a theater; or
- 101 (B) a device or system similar to a device or system described in Subsections
- 102 (10)(b)(iii)(A)(I) through (V).
- 103 (11) (a) "Hearing aid accessory" means a hearing aid:
- 104 (i) component;
- 105 (ii) attachment; or
- 106 (iii) accessory.
- 107 (b) "Hearing aid accessory" includes:
- 108 (i) a hearing aid neck loop;
- 109 (ii) a hearing aid cord;
- 110 (iii) a hearing aid ear mold;
- 111 (iv) hearing aid tubing;
- 112 (v) a hearing aid ear hook; or
- 113 (vi) a hearing aid remote control.
- 114 (c) "Hearing aid accessory" does not include:
- 115 (i) a component, attachment, or accessory designed to be used only with an:
- 116 (A) instrument or device described in Subsection (10)(b)(i); or
- 117 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- 118 (ii) a hearing aid battery.
- 119 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
- 120 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment

of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or injury;

(ii) are used exclusively by the person for whom they are prescribed to serve a medical purpose; and

(iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or under the state plan for medical assistance under Title 19 of the federal Social Security Act.

(b) "Home medical equipment and supplies" does not include:

(i) equipment and supplies purchased by, for, or on behalf of any health care facility, as defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their professional practice;

(ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or

(iii) hearing aids or hearing aid accessories.

(c) For purposes of Subsection (12)(b)(i), "health care facility" includes:

(i) a clinic;

(ii) a doctor's office; and

(iii) a health care facility as defined in Section 26-21-2.

(13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels in:

(a) mining or extraction of minerals;

(b) agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities; and

(c) manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget.

(14) "Manufactured home" means any manufactured home or mobile home as defined in

152 Title 58, Chapter 56, Utah Uniform Building Standards Act.

153 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

154 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
155 Classification Manual of the federal Executive Office of the President, Office of Management and
156 Budget; or

157 (b) a scrap recycler if:

158 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one
159 or more of the following items into prepared grades of processed materials for use in new products:

160 (A) iron;

161 (B) steel;

162 (C) nonferrous metal;

163 (D) paper;

164 (E) glass;

165 (F) plastic;

166 (G) textile; or

167 (H) rubber; and

168 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
169 nonrecycled materials.

170 (16) (a) "Medicine" means:

171 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
172 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
173 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

174 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
175 for that patient and dispensed by a registered pharmacist or administered under the direction of a
176 physician; and

177 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
178 direction of a physician or paramedic.

179 (b) "Medicine" does not include:

180 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

181 (ii) any alcoholic beverage.

182 (17) "Olympic merchandise" means tangible personal property bearing an Olympic

183 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
184 copyrighted or protected material, including:

185 (a) one or more of the following terms:

186 (i) "Olympic";

187 (ii) "Olympiad"; or

188 (iii) "Citius Altius Fortius";

189 (b) the symbol of the International Olympic Committee, consisting of five interlocking
190 rings;

191 (c) the emblem of the International Olympic Committee Corporation;

192 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
193 mark, symbol, terminology, trademark, or other copyrighted or protected material;

194 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the
195 Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or

196 (f) the mascot of the Olympic Winter Games of 2002.

197 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.

198 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
199 property.

200 (19) "Person" includes any individual, firm, partnership, joint venture, association,
201 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
202 municipality, district, or other local governmental entity of the state, or any group or combination
203 acting as a unit.

204 (20) "Purchase price" means the amount paid or charged for tangible personal property or
205 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken
206 or any excise tax imposed on the purchase price by the federal government.

207 (21) "Residential use" means the use in or around a home, apartment building, sleeping
208 quarters, and similar facilities or accommodations.

209 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
210 other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item,
211 or service by a retailer or wholesaler to a user or consumer.

212 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
213 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or

214 more.

215 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
216 against, those transactions where a purchaser of tangible personal property pays applicable sales
217 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
218 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
219 consideration, provided:

220 (i) the transaction is intended as a form of financing for the property to the
221 purchaser-lessee; and

222 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required
223 to capitalize the subject property for financial reporting purposes, and account for the lease
224 payments as payments made under a financing arrangement.

225 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
226 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
227 who is selling to the user or consumer and not for resale.

228 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
229 engaged in the business of selling to users or consumers within the state.

230 (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers
231 or agricultural producers producing and doing business on their own premises, except those who
232 are regularly engaged in the business of buying or selling for a profit.

233 (d) For purposes of this chapter the commission may regard as retailers the following if
234 they determine it is necessary for the efficient administration of this chapter: salesmen,
235 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
236 employers under whom they operate or from whom they obtain the tangible personal property sold
237 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
238 dealers, distributors, supervisors, or employers, except that:

239 (i) a printer's facility with which a retailer has contracted for printing shall not be
240 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

241 (ii) the ownership of property that is located at the premises of a printer's facility with
242 which the retailer has contracted for printing and that consists of the final printed product, property
243 that becomes a part of the final printed product, or copy from which the printed product is
244 produced, shall not result in the retailer being deemed to have or maintain an office, distribution

house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration. It includes:

- (a) installment and credit sales;
- (b) any closed transaction constituting a sale;
- (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (d) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (e) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(25) (a) "Sales relating to schools" means sales by a public school district or public or private elementary or secondary school, grades kindergarten through 12, that are directly related to the school's or school district's educational functions or activities and include:

(i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety equipment;

(ii) the sale of clothing that:

(A) a student is specifically required to wear as a condition of participation in a school-related event or activity; and

(B) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(iii) sales of food if the net or gross revenues generated by the food sales are deposited into a school district fund or school fund dedicated to school meals; and

(iv) transportation charges for official school activities.

(b) "Sales relating to schools" does not include:

(i) gate receipts;

(ii) special event admission fees;

(iii) bookstore sales of items that are not educational materials or supplies; and

(iv) except as provided in Subsection (25)(a)(ii), clothing.

(26) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(27) "State" means the state of Utah, its departments, and agencies.

(28) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(29) (a) "Tangible personal property" means:

(i) all goods, wares, merchandise, produce, and commodities;

(ii) all tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;

(iii) water in bottles, tanks, or other containers; and

(iv) all other physically existing articles or things, including property severed from real estate.

(b) "Tangible personal property" does not include:

(i) real estate or any interest or improvements in real estate;

(ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

(iii) insurance certificates or policies;

(iv) personal or governmental licenses;

(v) water in pipes, conduits, ditches, or reservoirs;

(vi) currency and coinage constituting legal tender of the United States or of a foreign nation; and

(vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not constituting legal tender of any nation, with a gold, silver, or platinum content of not less than 80%.

(30) "Unsorted merchandise" means unsorted merchandise:

(a) sold through a coin-operated vending machine that:

(i) dispenses the merchandise at random; and

(ii) does not allow a purchaser to select a particular item or type of item; and

(b) includes:

(i) food;

(ii) candy;

(iii) gum;

(iv) toys; or

(v) merchandise similar to Subsections (30)(b)(i) through (iv).

~~[(30)]~~ (31) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of that property in the regular course of business and held for resale.

~~[(31)]~~ (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle" for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad work equipment, or other railroad rolling stock.

~~[(32)]~~ (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection ~~[(31)]~~ (32).

~~[(33)]~~ (34) (a) "Vendor" means any person receiving any payment or consideration upon a sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), or to whom the payment or consideration is payable.

(b) "Vendor" does not mean a printer's facility described in Subsection (23)(d).

Section 2. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of construction materials except:

(a) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(b) construction materials purchased by the state, its institutions, or its political

subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions;

(3) (a) sales of food, beverage, ~~[and]~~ or dairy products from a vending ~~[machines in which]~~ machine if:

(i) the proceeds of each sale do not exceed \$1 ~~[if]~~; and
(ii) the vendor or operator of the vending machine reports an amount equal to 150% of the cost of ~~[items]~~ the food, beverage, or dairy products as goods consumed; or

(b) sales of unsorted merchandise from a coin-operated vending machine if:

(i) the proceeds of each sale do not exceed 50 cents; and
(ii) the vendor or operator of the coin-operated vending machine reports an amount equal to 150% of the cost of the unsorted merchandise as goods consumed;

(4) sales of food, beverage, dairy products, similar confections, and related services to commercial airline carriers for in-flight consumption;

(5) sales of parts and equipment installed in aircraft operated by common carriers in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) sales of cleaning or washing of tangible personal property by a coin-operated laundry or dry cleaning machine;

(8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(b) the exemption provided for in Subsection (8)(a) does not apply to the following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code:

(i) retail sales of Olympic merchandise;

(ii) except as provided in Subsection (51), admissions or user fees described in Subsection 59-12-103(1)(f);

(iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),

369 except for accommodations and services:

370 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
371 of 2002;

372 (B) exclusively used by:

373 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
374 Olympic Winter Games of 2002; or

375 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
376 Games of 2002; and

377 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
378 does not receive reimbursement; or

379 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
380 rental of a vehicle:

381 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
382 of 2002;

383 (B) exclusively used by:

384 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
385 Olympic Winter Games of 2002; or

386 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
387 Games of 2002; and

388 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
389 does not receive reimbursement;

390 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
391 state which are made to bona fide nonresidents of this state and are not afterwards registered or
392 used in this state except as necessary to transport them to the borders of this state;

393 (10) sales of medicine;

394 (11) sales or use of property, materials, or services used in the construction of or
395 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

396 (12) sales of meals served by:

397 (a) churches, charitable institutions, and institutions of higher education, if the meals are
398 not available to the general public; and

399 (b) inpatient meals provided at medical or nursing facilities;

(13) isolated or occasional sales by persons not regularly engaged in business, except the sale of vehicles or vessels required to be titled or registered under the laws of this state in which case the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle or vessel being sold as determined by the commission;

(14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

(i) machinery and equipment:

(A) used in the manufacturing process;

(B) having an economic life of three or more years; and

(C) used:

(I) to manufacture an item sold as tangible personal property; and

(II) in new or expanding operations in a manufacturing facility in the state; and

(ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

(A) have an economic life of three or more years;

(B) are used in the manufacturing process in a manufacturing facility in the state;

(C) are used to replace or adapt an existing machine to extend the normal estimated useful life of the machine; and

(D) do not include repairs and maintenance;

(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in Subsection (14)(a)(ii) is exempt; and

(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii) is exempt;

(c) for purposes of this Subsection (14), the commission shall by rule define the terms "new or expanding operations" and "establishment"; and

(d) on or before October 1, 1991, and every five years after October 1, 1991, the commission shall:

(i) review the exemptions described in Subsection (14)(a) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) sales of tooling, special tooling, support equipment, and special test equipment used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract, but only if, under the terms of that contract or subcontract, title to the tooling and equipment is vested in the United States government as evidenced by a government identification tag placed on the tooling and equipment or by listing on a government-approved property record if a tag is impractical;

(16) intrastate movements of:

(a) freight by common carriers; and

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class;

(17) sales of newspapers or newspaper subscriptions;

(18) tangible personal property, other than money, traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(a) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(b) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

commission;

(19) sprays and insecticides used to control insects, diseases, and weeds for commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and insecticides used in the processing of the products;

(20) (a) sales of tangible personal property used or consumed primarily and directly in farming operations, including sales of irrigation equipment and supplies used for agricultural production purposes, whether or not they become part of real estate and whether or not installed by farmer, contractor, or subcontractor, but not sales of:

(i) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and janitorial equipment and supplies;

(ii) tangible personal property used in any activities other than farming, such as office equipment and supplies, equipment and supplies used in sales or distribution of farm products, in research, or in transportation; or

(iii) any vehicle required to be registered by the laws of this state, without regard to the use to which the vehicle is put;

(b) sales of hay;

(21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or other agricultural produce if sold by a producer during the harvest season;

(22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(24) property stored in the state for resale;

(25) property brought into the state by a nonresident for his or her own personal use or enjoyment while within the state, except property purchased for use in Utah by a nonresident living and working in Utah at the time of purchase;

(26) property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(27) property upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(31) sales of boats of a type required to be registered under Title 73, Chapter 18, State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this state and are not thereafter registered or used in this state except as necessary to transport them to the borders of this state;

(32) sales of tangible personal property to persons within this state that is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state, except to the extent that the other state or political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the other state or political entity allows a credit for taxes imposed by this chapter;

(33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

(34) amounts paid for the purchase of telephone service for purposes of providing telephone service;

(35) fares charged to persons transported directly by a public transit district created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

(36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

(37) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

524 (38) sales relating to schools and fundraising sales;
525 (39) sales or rentals of home medical equipment and supplies;
526 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
527 Section 72-11-102; and
528 (b) the commission shall by rule determine the method for calculating sales exempt under
529 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
530 (41) sales to a ski resort of:
531 (a) snowmaking equipment;
532 (b) ski slope grooming equipment; and
533 (c) passenger ropeways as defined in Section 72-11-102;
534 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
535 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
536 recreation a coin-operated amusement device as defined in Section 59-12-102;
537 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
538 machine;
539 (45) sales by the state or a political subdivision of the state, except state institutions of
540 higher education as defined in Section 53B-3-102, of:
541 (a) photocopies; or
542 (b) other copies of records held or maintained by the state or a political subdivision of the
543 state; and
544 (46) (a) amounts paid:
545 (i) to a person providing intrastate transportation to an employer's employee to or from the
546 employee's primary place of employment;
547 (ii) by an:
548 (A) employee; or
549 (B) employer; and
550 (iii) pursuant to a written contract between:
551 (A) the employer; and
552 (B) (I) the employee; or
553 (II) a person providing transportation to the employer's employee; and
554 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

555 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
556 employee's primary place of employment;

557 (47) amounts paid for admission to an athletic event at an institution of higher education
558 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
559 1681 et seq.;

560 (48) sales of telephone service charged to a prepaid telephone calling card;

561 (49) (a) sales of hearing aids; and
562 (b) sales of hearing aid accessories;

563 (50) (a) sales made to or by:
564 (i) an area agency on aging; or
565 (ii) a senior citizen center owned by a county, city, or town; or
566 (b) sales made by a senior citizen center that contracts with an area agency on aging; and

567 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
568 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
569 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
570 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
571 International Olympic Committee; and

572 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
573 Winter Games of 2002 shall make at least two reports during the 2000 interim:

574 (i) to the:
575 (A) Olympic Coordination Committee; and
576 (B) Revenue and Taxation Interim Committee; and

577 (ii) regarding the status of:
578 (A) agreements relating to the funding of public safety services for the Olympic Winter
579 Games of 2002;

580 (B) agreements relating to the funding of services, other than public safety services, for
581 the Olympic Winter Games of 2002;

582 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
583 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

584 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
585 Taxation Interim Committee; or

586 (E) a combination of Subsections (51)(b)(ii)(A) through (D).

587 Section 3. **Effective date.**

588 This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-14-01 8:02 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel